

**DIVORCE COMMUNICATION PATTERNS OF TRUST AND RESPECT:  
THE RELATIONSHIP TO TRAUMA AND COPARENTING**

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PREVIEW

### **Dedication**

I cannot express the amount of gratitude I have for all my friends and family who stood by me through the many sleepless nights of my graduate career to fulfill this requirement. A special thank you to my children, who always provided positive energy to redirect me back to working on my dissertation. I am also deeply appreciative of my amazing partner for his encouragement and support throughout these stressful times. In addition, a deep appreciation for my beloved grandfather, Dan Gonzalez, who helped me put all the pieces together. Their support made this achievement possible, and I am forever grateful.

PREVIEW

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### **Abstract**

A High conflict divorce frequently features psychological aggression, coercive control, and trauma histories that may be associated with diminished coparenting quality. This dissertation proposal outlines a study examining the relationships among trauma exposure, specifically Adverse Childhood Experiences (ACEs), perceptions of divorce related conflict (COD), and coparenting quality (CO). The COD successfully characterized the present level of divorce related conflict. A key finding is that high ACE scores, particularly those related to substance abuse in the household and neglect, are significant drivers of post divorce conflict. This relationship is best understood through the lens of emotional dysregulation, where behaviors such as substance abuse and neglect manifest as failed attempts at self regulation within a genetically vulnerable system lacking the opportunity for co regulation. Guided by an understanding of escalation, de escalation, and the ability to respect and listen, this study explores how the failure to attune and regulate emotions fuels the cycle of high conflict divorce. The proposed research aims to inform family court responses by identifying patterns linked to strained coparenting relationships and underscoring the importance of relational and contextual factors in post divorce adjustment.

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PREVIEW

## CHAPTER I

### Introduction and Literature Review

#### Introduction

This study's framework is fundamentally rooted in the Adverse Childhood Experiences (ACEs) research, which offers a robust and comprehensive model for understanding the profound, long term impact of early life trauma. The ACEs Framework posits a direct, dose response relationship between the cumulative number of childhood adversities experienced (such as abuse, neglect, and household dysfunction) and subsequent negative health and behavioral outcomes. High ACE scores are strongly correlated with the largest areas of substance abuse, which often manifests as a maladaptive form of self medication and a failed attempt at self regulation in vulnerable individuals.

Crucially, this early trauma, especially chronic neglect and abuse, interferes with the neurobiological development necessary for emotional modulation and the establishment of secure attachments. This often results in a profound inability to regulate emotions and behaviors in adulthood, due to the critical absence of consistent, safe "co regulation" environments during development. This deficit in self regulation capability is central to the chronic, intense patterns of high conflict communication observed in post divorce dynamics. By positioning the ACEs Framework at the core of this paper, we aim to more directly trace how these childhood experiences create the emotional, psychological, and behavioral vulnerabilities that fuel high conflict coparenting and compromise trust and respect in separated family systems.

Family court mediation is a critical tool for families struggling to resolve disputes, particularly in child custody and visitation cases, by fostering a neutral environment and providing tools for amicable solutions and cooperative parenting (Beck et al., 2010). However, allegations of domestic violence introduce significant power imbalances and communication barriers, jeopardizing the fairness and safety of the process (Jaffe et al., 2003; Jaffe et al., 2006; Jaffe et al., 2008).

Cultural factors, including norms, values, communication styles, and religion impact the perception of conflict and behavior within family dynamics (Harmon-Darrow et al., 2020; Hofstede, 2001). These differences can influence engagement in mediation and the disclosure of domestic violence, especially when cultural norms discourage such discussions (Hofstede, 2001). Professionals must navigate diverse cultural backgrounds, languages, and socioeconomic statuses, making cultural sensitivity essential to ensure fair and effective outcomes (Kelly et al., 2021). Understanding communication styles, gender roles, and family obligations is crucial; this requires that professionals recognize their own biases and create an inclusive environment (Hall, 1976). Culture and diversity intersect with domestic violence, as cultural factors influence reporting, interpretation, and response (Raj et al., 2002). Some cultures may stigmatize individuals who have been victimized or normalize violence, which underscores the need for a culturally competent approach by mediators and legal professionals (WHO, 2013).

Effective screening tools are vital for distinguishing high-conflict cases from intimate partner violence (IPV) in family court mediation. These tools require consistent definitions and standardized methods to support specialized interventions (McCutcheon, 2022). Therapeutic jurisprudence, which integrates therapeutic principles into the legal process, can help address underlying emotional and psychological issues in high-conflict cases (Johnston et al., 2009). The

complexities of family court mediation, particularly in cases involving domestic violence, introduce challenges such as power imbalances, instability, and communication barriers that can lead to adverse outcomes, especially for children. High-conflict communication patterns, especially when domestic violence is alleged, pose significant obstacles to dispute resolution and can compromise children's well-being. These challenges are further exacerbated by the presence of trauma and the breakdown of trust and respect between parties.

### **Key Definitions**

1. **High-Conflict Communication:** In the context of family court, "high-conflict communication" refers to persistent and intense patterns of negative interaction between individuals, often involving divorced or separated parents. These patterns are characterized by:
  - a. **Verbal Aggression:** Hostile, manipulative, passive-aggressive, and relational verbal attacks, including threats, insults, name-calling, and derogatory language (Infante et al., 1986; Crick et al., 1995).
  - b. **Coercion:** The use of tactics such as gaslighting, triangulation, or emotional blackmail to control or influence the other party.
  - c. **Stonewalling:** Refusal to engage in or respond to communication attempts, often as a form of emotional abuse or control (Gottman, 1994; Romano et al., 2023).
  - d. **Chronic Disputes:** Prolonged and intense disagreements, frequently involving legal battles and repeated court appearances.
  - e. **Lack of Self-Awareness:** An inability to recognize or modify one's negative behavior in response to feedback.

- f. **All-or-Nothing Thinking:** Viewing situations in black-and-white terms, leading to rigid and extreme positions or solutions.
2. **Intimate Partner Violence (IPV) / Domestic Violence:** IPV, also known as domestic violence, is a pattern of abusive behaviors used by one partner to gain or maintain power and control over another in an intimate relationship. It encompasses:
  - a. **Physical Abuse:** Infliction of physical harm or threats thereof.
  - b. **Emotional Abuse:** Verbal aggression, intimidation, manipulation, and controlling behaviors that damage emotional well-being.
  - c. **Psychological Abuse:** Tactics such as gaslighting, isolation, and coercion that undermine a person's sense of reality and autonomy.
  - d. **Economic Abuse:** Coercion, manipulation, or exploitation intended to control or limit access to financial resources, or to exploit finances for personal gain.
  - e. **Sexual Abuse:** Any sexual act or attempted act committed against a person's will or without consent by a current or former intimate partner.
3. **Coparenting:** The shared responsibility of raising children by two or more individuals, typically parents who are divorced, separated, or never in a romantic relationship. It involves:
  - a. **Shared Responsibility:** Both parents actively participate in decision-making and caregiving.
  - b. **Communication:** Open and effective dialogue regarding the children's needs and well-being.
  - c. **Decision-Making:** Collaborative choices about education, healthcare, and other key matters.

- d. **Mutual Support:** Encouraging and supporting the other parent's role, despite any personal conflict.
4. **Emotional Dysregulation:** A term used to describe a difficulty or inability to manage the intensity and duration of one's emotional responses, often resulting in reactions that are disproportionate to the situation. It involves challenges in inhibiting inappropriate behavior, organizing behavior to achieve a goal, monitoring and modifying emotional experience, and attending to positive emotions.
5. **Regulation / Self-Regulation:** The ability to effectively manage and respond to an emotional experience. Self-regulation is an internal process, while Coregulation refers to the external, interactive process between two people (e.g., parent-child) where one person helps the other return to a calm or balanced state. A history of childhood trauma (ACEs) can impair the development of self-regulation skills, leading to dysregulation in adult conflict.
6. **Trauma:** An emotional response to a distressing or disturbing event, or series of events, that overwhelms an individual's capacity to cope. Trauma can have long-term adverse effects on mental, physical, and emotional health.
  - a. **Childhood Trauma:** Adverse Childhood Experiences (ACEs), such as abuse, neglect, or household dysfunction occurring before age 18.
  - b. **Trauma Related to IPV:** Psychological and emotional trauma resulting from experiencing or witnessing intimate partner violence.
  - c. **Impact on Communication and Relationships:** Trauma can result in heightened emotional reactivity, difficulty trusting others, avoidance behaviors, and emotional regulation, all of which impair communication and interpersonal

relationships.

7. **Trust:** In interpersonal relationships, especially in the context of coparenting and family court, trust refers to the belief in another person's reliability, integrity, and good intentions. It includes:
  - a. **Dependability:** Confidence that the other person will honor commitments and responsibilities.
  - b. **Honesty:** Confidence in the other person's truthfulness and transparency.
  - c. **Safety:** Feeling emotionally and physically secure in the relationship.
  - d. **Vulnerability:** Willingness to be emotionally open and exposed.
  - e. **Respect:** Demonstrating dignity and consideration for others by valuing their perspectives, including:
    - i. **Active Listening:** Attending to others' words and validating their feelings.
    - ii. **Courtesy:** Using polite language and behavior.
    - iii. **Empathy:** Understanding and affirming others' emotions.
    - iv. **Boundaries:** Recognizing and honoring others' personal limits.
8. **Mediation:** In family court, mediation is a process in which a neutral third party (the mediator) helps disputing parties, typically divorcing or separating parents, reach mutually acceptable agreements on matters such as child custody, visitation, and property division. The goals are to facilitate communication, explore options, and identify solutions that serve the best interests of the children and both parents. This process typically involves facilitated discussions, negotiation, and the creation of a written agreement.

**9. Therapeutic Jurisprudence:** A legal perspective that examines the law's impact on emotional well-being and psychological functioning. It advocates for legal rules, procedures, and actors to be designed and implemented in ways that promote beneficial therapeutic outcomes. In the family court setting, therapeutic jurisprudence involves considering the emotional needs of families, minimizing harm, and promoting healing and resolution. This may include the use of trauma-informed practices, problem-solving courts, and collaborative law approaches.

**10. Integrity:** The soundness of moral principle and character. In a legal context, integrity refers to the steadfast adherence to ethical standards and the rule of law, which is essential for maintaining public trust in the justice system. Legal integrity binds all actors, including judges, lawyers, and mediators, to uphold ethical conduct, impartiality, and consistency in their actions. Within the framework of this study, integrity is further operationalized as being honest and consistent in words and actions, serving as a cornerstone for building trust and reducing resistance in court-mandated processes.

## Literature Review

### *Divorce, Conflict, and Family Court*

The landscape of family life in the United States is significantly shaped by divorce, an event that impacts millions of adults and children annually. Current statistics indicate a persistent rate of marital dissolution (Centers for Disease Control and Prevention [CDC], 2024; Legal Jobs, 2023), underscoring the widespread relevance of understanding post-divorce family functioning. While divorce itself presents challenges, a substantial body of research highlights the particularly detrimental effects when separations involve high-conflict dynamics, characterized by prolonged disputes and intense acrimony that often escalate within the family court system (Amato, 2010).

Synthesizing findings across developmental psychology and family studies reveals that it is often the conflict associated with divorce, rather than the separation itself, that most significantly harms children's well-being, contributing to heightened risks for behavioral, academic, and emotional difficulties (American Academy of Pediatrics, 2016). Critically, high-conflict situations frequently intertwine with or escalate into intimate partner violence (IPV), creating volatile and potentially dangerous family environments (Morelli et al., 2022).

This synthesis points to a crucial nexus for intervention and research: the communication patterns that define these high-conflict interactions within the family court context. Therefore, examining how dynamics of trust and respect manifest or break down in communication between separating parents involved in the legal system is essential not only for understanding the perpetuation of conflict but also for developing interventions aimed at mitigating harm and fostering more cooperative coparenting relationships (Kelly et al., 2021; Rosales, 2018). This literature review explores these complex dynamics, including the interplay between communication, conflict, IPV, trauma, trust, and respect, to build the foundation for investigating improved approaches within the family court system.

In California, family court mediation is a common practice, with an estimated 65,500 mediation sessions conducted annually to help resolve custody disputes and other family conflicts (California Courts, 2021). These mediation sessions aim to reduce conflict through structured communication practices and to promote cooperative parenting arrangements, ultimately benefiting the well-being of children and families. This review explores the dynamics of high-conflict communication within family court, emphasizing the critical roles of trauma, trust, and respect in shaping coparenting dynamics. It synthesizes literature on conflict

resolution, communication behaviors, and trauma-informed interventions, providing a foundation for improving family court procedures and mediation outcomes.

Ultimately, understanding the multifaceted nature of high-conflict divorce, recognizing that the presenting conflict may be deeply entangled with intergenerational trauma patterns, active intimate partner violence, substance abuse, or significant mental health challenges for one or both parties (Afifi et al., 2006; Amato, 2014; Beeble et al., 2007; Hardesty et al., 2016; Testa & Livingston, 2009), is paramount for professionals working within the family court system. Critically, acknowledging this complexity reveals the potential inadequacy of standard dispute resolution frameworks. These deeply rooted issues often demand more than conflict management techniques; they necessitate therapeutic intervention, robust safety planning, or specialized support systems that may fall outside the typical scope or procedural limitations of court-mandated processes like mediation. Therefore, the presence of such complicating factors fundamentally challenges the assumptions underlying many conventional interventions and underscores the urgent need for trauma-informed, communication-focused assessment and intervention strategies, which will be explored in the sections that follow.

### ***Family Court as an Intervention***

While family court systems are established as pivotal intervention points intended to resolve parental disputes and protect child welfare during divorce and separation (Johnson et al., 2005; Pruett et al., 2010), their effectiveness in achieving these goals, particularly in high-conflict cases, requires critical examination. To mitigate adversarial processes and promote parental cooperation, courts frequently utilize alternative dispute resolution mechanisms, with mediation being a primary example. Mediation, conceptualized as a neutral, facilitated negotiation process (Emery et al., 2005), aims to empower parents to craft their own agreements

regarding custody, finances, and parenting plans thereby fostering better communication and outcomes for children compared to litigation (Johnston et al., 1997; Rosales, 2018).

However, this idealized view of mediation often clashes with the complex realities of high-conflict separation, particularly when underlying issues involve significant power imbalances, trauma histories, intimate partner violence (IPV), or entrenched patterns of destructive communication. Research and clinical experience raise serious questions about the suitability and safety of standard mediation protocols in such contexts (Beck et al., 2001). Specifically, the core assumptions of mediation, such as balanced power, capacity for rational negotiation, and mutual good faith, may be fundamentally absent. Applying mediation without adequately screening for or addressing these complicating factors, including the impact of trauma on a parent's ability to negotiate or advocate for their safety, risks leading to coerced agreements and may exacerbate harm.

Although the need for specialized professional training is widely recognized (Bala et al., 2001), this recognition points to a significant gap: the standard mediation model may be ill-equipped for the very families most commonly encountered in contentious family court dockets. This underscores the need for research into alternative or significantly modified approaches that integrate trauma-informed principles and robust safety planning.

In California, the determination of a child's well-being in family court is guided by California Family Code § 3011. This section outlines several key factors the court must consider to determine the best interests of the child, including the health, safety, and welfare of the child as the primary consideration, and the nature and amount of contact with both parents, except in cases where such contact would be detrimental (California Family Code § 3011).

When domestic violence is present, mediation faces unique challenges. Victims may feel intimidated or coerced, making it difficult to advocate for their needs. The power imbalance inherent in abusive relationships can undermine the fairness of the mediation process. Therefore, professionals must be trained to recognize and address these dynamics to ensure a safe and equitable process.

Although the necessity of distinguishing high-conflict cases from those involving IPV is widely acknowledged, effective implementation of screening remains a significant challenge. Scholars such as Huber et al. (2023) and McCutcheon (2021, 2022) emphasize the need for consistent definitions and reliable screening methods to identify families requiring specialized interventions and to ensure participant safety. In theory, such tools provide a foundation for tailoring interventions to complex emotional and psychological dynamics. However, a critical examination of the literature reveals a gap between the intended function of these tools and their practical application.

Despite ongoing development (McCutcheon, 2021), current screening instruments often prove inadequate. Many focus heavily on overt physical violence, failing to detect more insidious patterns of coercive control, psychological abuse, or manipulation behaviors central to many high-conflict and IPV dynamics (Department of Justice Canada, n.d.). This narrow focus poses a significant limitation, potentially leaving victims of non-physical abuse unidentified and vulnerable within the mediation process. Furthermore, even potentially adequate tools are hampered by inconsistent implementation across jurisdictions, inadequate professional training in administration and interpretation, and real-world constraints such as limited time and resources (McCutcheon, 2021; Rossi et al., 2022).

As a result, the current state of screening presents a critical problem: reliance on flawed tools and inconsistent practices may fail to protect vulnerable parties and can lead to inappropriate or ineffective interventions. This highlights the need for more nuanced assessment approaches that account for the complexities of trauma and coercive control beyond merely physical violence.

The role of family court mediation in addressing IPV is multifaceted. Professionals must be trained to identify and manage the dynamics of IPV, including the power imbalances and safety concerns that may arise in these cases (Beck et al., 2010). Additionally, mediation programs must incorporate evidence-based practices and protocols to ensure that the needs and safety of individuals who have been victimized are prioritized (Johnston et al., 2009).

The adversarial nature of the legal system can further exacerbate conflict between parents and make resolution more difficult (Milchman, 2022). This system often emphasizes fault-finding over collaboration, increasing misunderstandings and hostility. As illustrated through the lens of therapeutic jurisprudence, legal professionals should consider alternative dispute resolution methods such as mediation to help parents resolve their differences in a more constructive and less adversarial manner (Milchman, 2022). This approach may also support the application of behavioral principles to reduce patterns of high-conflict communication. Referral to counseling services plays a crucial role in mitigating the impact of high-conflict cases within family court. Therapeutic jurisprudence, which integrates therapeutic principles into legal procedures, can be particularly effective in this context.

This raises a critical question for courts employing therapeutic jurisprudence: How can the legal system effectively identify the specific, recognizable patterns of behavior that characterize intimate partner violence amid the complexities of high-conflict disputes?

***Patterns Found Within Interpersonal Violence (IPV)***

Statistics on IPV highlight the prevalence and impact of this issue. According to the Centers for Disease Control and Prevention (CDC), about 41% of women and 26% of men in the United States have experienced sexual violence, physical violence, or stalking by an intimate partner during their lifetime (CDC, 2021). Additionally, more than 61 million women and 53 million men have experienced psychological aggression by an intimate partner (CDC, 2021). In California, approximately 250,000 restraining orders are issued each year, with 72% obtained by women against men (Sorenson et al., 2005). The state also maintains approximately 880 protection orders per 100,000 adults, with 84% to 92% of these orders issued for domestic violence cases (Journal of the American Academy of Psychiatry and the Law, 2023). In California custody cases, approximately 70% of restraining orders involve fathers as the recipients, while 27% involve mothers (Raub et al., 2013). These statistics underscore the widespread nature of IPV and the need for effective interventions and support systems.

IPV has significant implications for family law, particularly in cases involving child custody and visitation. Research indicates that children exposed to IPV are at higher risk for emotional and behavioral problems, including anxiety, depression, and aggression (Bancroft et al., 2002). Family courts must consider the safety and well-being of children when making custody and visitation decisions, and allegations of IPV can significantly complicate these determinations (Jaffe et al., 2006; Jaffe et al., 2008).

In California, Family Code Section 3044 addresses parental rights in cases involving domestic violence allegations. According to this statute, if a parent seeking custody has been found to have committed domestic violence within the past five years, there is a rebuttable presumption that awarding sole or joint physical or legal custody to that parent is detrimental to

the child's best interest (California Family Code § 3044, 2023). To overcome this presumption, the parent must demonstrate that custody is in the child's best interest and has completed specific requirements, such as a batterer's treatment program, alcohol or drug abuse counseling, and parenting classes. The court also considers compliance with probation or parole conditions and any further acts of domestic violence (California Family Code § 3044, 2023). These provisions are designed to protect children from harm and ensure their safety and well-being in custody decisions.

Individuals who have been victimized by IPV may struggle to negotiate effectively due to fear and trauma, leading to agreements that do not adequately protect their safety or the well-being of their children (Jaffe et al., 2003; Jaffe et al., 2008). Specialized approaches, such as the use of trained professionals and the implementation of safety protocols, are necessary to address these challenges and ensure fair and equitable outcomes (Beck et al., 2010).

One challenge in domestic violence allegations within custody cases lies in the complexity and sensitivity of the claims themselves. When one parent alleges abuse, the court must carefully evaluate the evidence to determine the validity of the allegations. Temporary Restraining Orders (TROs), often issued in these cases, are civil court orders distinct from criminal charges or convictions (Kann California Defense Group, n.d.). While the alleged conduct may also constitute a criminal offense, a TRO is issued based on a standard of reasonable proof of harassment or potential harm and is often initiated *ex parte*, without the other party present (Cal. Code Civ. Proc. § 527.6; California State University, Long Beach, n.d.).

These cases grow more complex when there are mutual allegations, in which both parents accuse each other of abuse. In such instances, the court must evaluate conflicting narratives, limited evidence, and heightened emotional intensity. The burden of proof in civil court, coupled

with the need to prioritize the child's best interest, makes these cases especially difficult to adjudicate.

Time is another significant challenge. Courts must balance the need for thorough investigation with the urgency of providing a safe and stable environment for the child. Prolonged legal disputes can exacerbate emotional and psychological stress for all parties, particularly children. Delays in resolving custody matters may result in continued exposure to harmful environments and prolonged uncertainty, negatively affecting a child's well-being. Consequently, victims of IPV may continue to face barriers to effective negotiation, increasing the likelihood of unsafe or inequitable custody outcomes (Jaffe et al., 2008). Ensuring that IPV allegations are substantiated and not used manipulatively to gain advantage, is essential. Courts must act both swiftly and judiciously (California Family Code § 3044, 2023; California Courts, 2023).

The concept of victim precipitation, as discussed by Petherick, Kannan, and Brooks (2021), adds another layer of complexity. Victim precipitation refers to cases in which the victim may have contributed to or provoked the offender's behavior. While controversial, this construct has important implications for risk assessment and threat management in domestic violence contexts. Omitting it from evaluations can limit understanding of relational dynamics and lead to incomplete risk assessments. Including it may help professionals develop more effective, individualized intervention strategies to reduce harm (Petherick et al., 2021). Expert assessments and evidence-based practices are essential tools for navigating such cases (Johnston et al., 2009).

### ***Bidirectional Violence and its Implications***

Another underrecognized pattern is bidirectional violence, cases in which both partners engage in violent behavior. Research suggests that 57.9% of IPV incidents in large population